

Site Names: Milpitas Police Department	
--	--

***14**

SILICON VALLEY REGIONAL INTEROPERABILITY AUTHORITY SVRCS EQUIPMENT INSTALLATION LICENSE			
LICENSOR	CITY OF MILPITAS		
LICENSEE	SILICON VALLEY REGIONAL INTEROPERABILITY AUTHORITY		
SITE LOCATION(S)	Milpitas Police Department, 1275 N. Milpitas Blvd.		
TERM	<i>[Execution date]</i> Start Date	December 31, 2026 End Date	

This Equipment Installation License ("LICENSE") is made and entered into this ____ day of _____, 2016, by and between the City of Milpitas, a municipal corporation ("LICENSOR"), and the Silicon Valley Regional Interoperability Authority, a California Joint Powers Authority ("LICENSEE") (together "Parties").

RECITALS

The following recitals are a substantive portion of this LICENSE:

1. Silicon Valley Regional Interoperability Authority ("SVRIA"), LICENSEE will be installing additional equipment at certain telecommunications sites within the County of Santa Clara, including the site owned by LICENSOR shown in Exhibit "A" attached hereto and incorporated by this reference ("Property").
2. This equipment is part of the Silicon Valley Regional Communications System ("SVRCS").
3. LICENSEE desires to permit SVRIA and its contractors to enter upon and into LICENSOR's Property to install, maintain, repair and replace radio, electronic and related equipment and support structures for the SVRCS ("SVRCS Equipment"), under the terms and conditions contained in this LICENSE.
4. Motorola and its construction contractor have been contracted to perform certain activities at LICENSOR's locations in conjunction with the installation of SVRCS.
5. The intent of this LICENSE is to provide access to the Property for SVRIA, Motorola and its construction contractor. SVRIA agrees to indemnify LICENSOR for the negligent acts or omissions of Motorola its construction contractor or SVRIA in

Site Names: Milpitas Police Department		
---	--	--

connection with LICENSEE and its contractors' work exercising their rights under this LICENSE.

NOW THEREFORE LICENSOR AND LICENSEE AGREE AS FOLLOWS:

1. Grant

Subject to the terms and conditions of this LICENSE, LICENSOR grants to LICENSEE a non-exclusive license during the Term (as defined below) to access and use the existing telecommunications equipment room located in the second floor Radio Room adjacent to the Milpitas Police Department's Communication Center on the Property and depicted in Exhibit "B" and the rooftop of the Milpitas Police Department ("SVRCS Equipment Area"). Before placing any SVRCS Equipment on the rooftop, LICENSEE will provide plans to LICENSOR and obtain approval of the new load and equipment placement from LICENSOR's Building Department and Public Works Department. Once finalized, these rooftop plans will be added to Exhibit "B".

2. Use

2.1 LICENSEE shall have the right to enter the Property and to use the SVRCS Equipment Area solely for the installation, operation, repair, replacement, and maintenance of the SVRCS Equipment.

2.2 LICENSEE's installation, maintenance, repair, replacement, and operation of the SVRCS Equipment shall be performed by one or more qualified technical persons. All work shall be done in accordance with industry standards, in compliance with all applicable statutes, ordinances, regulations, laws, and in compliance with the *Quality Standards for Fixed Network Equipment Installation R-56* published by Motorola, Inc.

2.3 LICENSOR and LICENSEE agree to work together in good faith to resolve any mutual interference issues in connection with the use of the SVRCS Equipment Area by both Parties. LICENSEE agrees to design, construct, install, and modify its SVRCS equipment operations to avoid interference with the signals of LICENSOR and any existing licensee. If LICENSEE's installation, or operation, in any way hinders, obstructs, or through testing described below, is shown to interfere with the communications existing at the time of this LICENSE or other SVRCS Equipment of LICENSOR, or any licensee at the Property or SVRCS Equipment Area, LICENSEE shall, at its sole cost and expense, upon receipt of written notification cease the interfering installation or operation.

2.4 Any interference and incompatibility testing required to determine radio interference with other SVRCS equipment at the SVRCS Equipment Area shall, at LICENSEE's expense, be made by a qualified technician representing LICENSEE and a representative designated by LICENSOR. If the test is satisfactory to both the technician and the LICENSOR representative, a certification of such test signed by both the technician and the LICENSOR representative shall be forwarded to LICENSOR at the location for notices indicated in this LICENSE.

Site Names: Milpitas Police Department		
---	--	--

2.5 This LICENSE shall serve as a right of entry for Motorola and its construction contractors to enter the Property for the purposes of installing, maintaining, repairing, or replacing the SVRCS Equipment. LICENSEE shall use its best efforts to provide LICENSOR with advance notice of any contractors it intends to allow to access the SVRCS Equipment Area under this License including names of individual employees of Motorola or other contractors ("Contractors") and ensure Contractors comply with the terms of this LICENSE including the access procedures in Section 6.1.

3. Term

This LICENSE shall have a term from the Start Date until the End Date indicated on the cover page of this LICENSE ("**Term**"). LICENSEE has the option to extend the Term for up to two additional, consecutive five (5) year periods upon the same terms, covenants and conditions as are contained in this LICENSE ("**Options**"). LICENSEE may exercise the Options by giving written notice of exercise to LICENSOR not less than one hundred twenty (120) days prior to the expiration of the then-current Term or Options term.

4. [intentionally omitted]

5. Condition of SVRCS Equipment Area

LICENSEE agrees to take the SVRCS Equipment Area "as is" and with all faults. LICENSOR does not warrant or represent that the SVRCS Equipment Area is suitable for LICENSEE's purposes. LICENSEE has made its own investigation and independent determination of the satisfactory condition of the SVRCS Equipment Area and its suitability for its intended use. LICENSEE assumes for itself, its employees, agents, and contractors, all risks associated with its entry into the SVRCS Equipment Area. LICENSEE waives any claim against LICENSOR, its employees, contractors, and agents for injuries sustained by LICENSEE, its employees, agents and contractors in the SVRCS Equipment Area and surrounding Property and for any damage to LICENSEE's property, except to the extent of liability for injuries or damage caused by LICENSOR's gross negligence or willful misconduct.

6. Maintenance and Repair:

6.1 LICENSEE shall be responsible for maintaining, repairing, and replacing the SVRCS Equipment at LICENSEE's expense. Subject to compliance with Section 13, LICENSEE is allowed access to the SVRCS Equipment Area 24 hours a day, seven days a week. Access to the SVRCS Equipment Area shall be controlled by the LICENSOR's Police Department. LICENSEE's Contractors shall make telephone contact with Police at telephone: 408-586-2400 at least two (2) hours in advance of a visit to gain access. LICENSEE's Contractors shall present appropriate photo identification and employer identification to Police, and once security clearance is confirmed by Police, LICENSEE's Contractors shall be allowed to enter the building and shall have unrestricted access to the SVRCS Equipment Area.

Should LICENSEE require emergency access, LICENSEE shall follow the same procedures as above giving as much advance notice of a visit to Police as practical in the circumstances.

6.2 LICENSOR, at LICENSOR's expense, shall maintain the SVRCS Equipment Area (other than the SVRCS Equipment) in good order, condition and repair; provided, however,

Site Names: Milpitas Police Department		
---	--	--

any damage in or to the SVRCS Equipment Area or systems and equipment in the SVRCS Equipment Area caused by LICENSEE or any agent, officer, employee, or contractor of LICENSEE, shall be promptly repaired by LICENSEE at its expense. Similarly, any damage in or to the SVRCS Equipment Area or SVRCS Equipment in the SVRCS Equipment Area caused by LICENSOR or any agent, officer, employee, or contractor of LICENSOR, shall be promptly repaired by LICENSOR at its expense.

6.3 Upon expiration or earlier termination of this LICENSE, LICENSEE shall remove all of the SVRCS Equipment, unless the parties agree otherwise. LICENSOR and LICENSEE shall meet to discuss the disposition of the SVRCS Equipment. Unless the parties agree in writing within thirty (30) days of the expiration or earlier termination of this LICENSE that the SVRCS Equipment is not to be removed, LICENSEE shall promptly remove the SVRCS Equipment and return the SVRCS Equipment Area to its original condition, less reasonable wear and tear, or as otherwise agreed by the Parties.

7. Utilities and Services

LICENSOR agrees to furnish to the SVRCS Equipment Area all utilities reasonably required for LICENSEE's intended use. LICENSOR shall maintain appropriately required HVAC for the SVRCS Equipment Area, as determined by LICENSOR in its sole discretion. Notwithstanding the foregoing, LICENSEE agrees that as part of its scope of work to install the SVRCS Equipment, LICENSEE will also install, at its sole cost, HVAC and electrical upgrades needed to support the SVRCS Equipment.

8. Damage and Destruction:

If the Property, SVRCS Equipment Area, or any portion thereof is destroyed or made unusable by fire, flood, vandalism, earthquake or any other causes ("Destruction") so as to make it impossible or impracticable to carry on business in substantially the same manner it was conducted before the Destruction, then LICENSEE understands and agrees that any restoration of the Property, SVRCS Equipment Area, or portions thereof, shall be at the sole discretion of the LICENSOR. If the Property, SVRCS Equipment Area, or portion thereof cannot be restored within ninety (90) calendar days of the damage or destruction at a commercially reasonable cost, or LICENSOR determines that it does not have available funds and authority, this LICENSE and its provisions may be terminated by election of either party. In the event of the termination of this LICENSE, LICENSEE shall remove the SVRCS Equipment, except as otherwise agreed to by LICENSOR.

9. Default

The failure of either Party to perform any of its obligations hereunder which remains uncured for 30 days after written notice to it by the non-defaulting party will constitute an Event of Default. Notwithstanding the foregoing, if the Event of Default is such that it will reasonably require more than 30 days to cure, then the Defaulting Party shall not be in default hereunder if it commences the cure within 30 days after written notice and thereafter proceeds diligently to complete the cure, but in no case shall such Event of Default continue for more than 60 days; or In an Event of Default, the non-defaulting party may, without waiving any other rights or remedies, immediately terminate this LICENSE. Upon the expiration or termination of this

Site Names: Milpitas Police Department		
---	--	--

LICENSE, all rights and obligations of the Parties under this LICENSE terminate upon the effective date of such expiration or termination, except Section 10 (Indemnification) and those other provisions that by their nature should survive such expiration or termination.

10. Indemnification

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to California Government Code § 895.6, LICENSEE shall indemnify, defend, reimburse, and hold harmless LICENSOR, its officers, employees, contractors, and agents against any claim, suit, liability, loss, expense, or damage, including reasonable attorney's fees and costs, with respect to injury or death to any person or damage to any property to the extent such arises from or is related to the use of the Property and SVRCS Equipment Area by LICENSEE, its officers, employees, contractors, or agents, including but not limited to Motorola and its construction contractor. LICENSOR shall indemnify, defend and hold harmless LICENSEE, its officers, employees and agents, against any claim, liability, loss, expense or damage, including reasonable attorney's fees and costs, with respect to injury or death to any person or damage to any property to the extent such arises from the negligence or willful misconduct of LICENSOR, its officers, employees or agents in connection with this LICENSE. This mutual indemnity shall survive the termination or expiration of this LICENSE. Notwithstanding the foregoing, neither Party shall be liable to the other Party for any special or consequential damages.

11. Limited License Only

This LICENSE provides, subject to the terms and conditions herein, only a non-exclusive license in the SVRCS Equipment Area and does not in any way confer on LICENSEE any other interest, whether implied or expressed, in any real property. As between LICENSEE and LICENSOR, LICENSEE retains all right, title and interest in the SVRCS Equipment.

12. Insurance

LICENSEE and its contractors shall maintain in full force and effect, the comprehensive insurance described in Insurance Requirements described in Exhibit "C" at its sole cost and expense.

13. Security Systems

The installation, maintenance, operation, replacement, or repair of SVRCS Equipment shall not require prior written approval. LICENSEE may install a security system in the SVRCS Equipment Area for its own SVRCS Equipment, provided LICENSEE submit its plans for same to LICENSOR for LICENSOR's prior written approval, which approval shall not be unreasonably withheld. LICENSEE shall provide LICENSOR with access to its security system. LICENSEE shall comply with all security requirements associated with the SVRCS Equipment Area including with LICENSOR's security requirements.

14. Assignment and Transfer

The rights granted to LICENSEE shall not be assigned, sold, encumbered, or transferred by LICENSEE, in whole or in part, without the prior written consent of the LICENSOR. Notwithstanding the foregoing, nothing herein shall preclude LICENSEE from, at its sole cost,

Site Names: Milpitas Police Department		
---	--	--

altering, transferring or moving the SVRCS Equipment to another site or entering into another license agreement to relocate the SVRCS Equipment.

15. Notices:

All notices required to be given hereunder, or which either party may wish to give, shall be in writing and shall be served either by personal delivery, rapid courier (such as Federal Express or United Parcel Service) or by regular mail, postage prepaid, addressed as follows:

To LICENSOR: Milpitas Police Department
 Attn: Chief of Police
 1275 N. Milpitas Blvd.
 Milpitas, CA 95035
 Telephone: (408) 586-2400
 With a copy to:

City Attorney
 City of Milpitas
 c/o Best Best & Krieger LLP
 2001 N. Main Street
 Suite 390
 Walnut Creek, CA 94596
 Tel: (925) 977-3300

To LICENSEE: Heather Tannehill-Plamondon
 Executive Director
 SVRIA
 601 El Camino Real
 Santa Clara, CA 95050
 Telephone 408-615-5571

16. Non-Discrimination

A. Requirements. LICENSEE shall comply with all applicable Federal, State, and local laws and regulations. Such laws include, but are not limited to, the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900, *et seq.*) and California Labor Code sections 1101 and 1102. LICENSEE shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation, nor shall LICENSEE discriminate in provision of services provided under this LICENSE because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations or marital status. Failure to comply with the

Site Names: Milpitas Police Department		
---	--	--

requirements set forth herein shall be deemed cause for cancellation, termination, or suspension of this LICENSE.

17. Permits

LICENSEE shall, at LICENSEE's sole cost and expense and prior to the commencement of activities permitted hereunder, comply with all applicable Federal, State and local laws, regulations and orders, and obtain all permits which may be required by public agencies including, without limitation, the Federal Communications Commission, CAL-OSHA and other relevant agencies and local jurisdictions to the extent they have jurisdiction over the activities of LICENSEE at the Property and shall comply with all conditions and requirements set forth in the permits issued by such agencies. During the term of this LICENSE, LICENSEE shall maintain, to the extent required, an FCC license in full force and attach a copy of such license to each transmitter.

18. Governing Law and Jurisdiction

This LICENSE is accepted by the Parties in, and governed by and construed in accordance with, the laws of the State of California without giving effect to its conflicts of laws provisions. All litigation actions with respect of this LICENSE shall be brought in California state courts having jurisdiction within Santa Clara County, California and the Parties expressly consent to the personal jurisdiction of such courts.

19. Entire LICENSE

This LICENSE represents the entire LICENSE by and between the Parties relative to the use of the Property. Any prior or contemporaneous oral or written licenses by and between the Parties and/or their agents and representatives relative to such use are revoked and extinguished by this LICENSE, with the exception of the Site Use LICENSE for ECOMM.

20. Representations and Warranties

The Parties represent and warrant that, they are not currently bound by any other agreements, restrictions or obligations, nor will they assume any such obligations or restrictions which do or would in any way interfere or be inconsistent with this LICENSE.

21. Amendments

This LICENSE may not be modified except in writing signed by duly authorized representative(s) of the Parties.

22. Waiver

Waiver by the Parties of any breach of any term, covenant or condition of this LICENSE shall not be deemed to waive the same or any other term, covenant or condition of this LICENSE or the right to subsequently enforce such term or condition in the future.

23. Severability

In the event that any provision of this LICENSE is held or construed to be invalid by any court having jurisdiction over disputes related to this LICENSE, such provision will, if reasonable to

Site Names: Milpitas Police Department		
---	--	--

do so, be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, or, if not reasonable to do so, be deemed to be excluded from this LICENSE. In any event, all other provisions of this LICENSE will remain in full force and effect.

24. Counterparts

This LICENSE may be signed in multiple counterparts, each of which will be considered an original, and all of which will be considered one and the same document.

This LICENSE is entered into the date set forth below by and between LICENSOR and LICENSEE.

DATE

LICENSOR City of Milpitas

LICENSEE

By _____
 Name:
 Title:

By _____
 Name: Heather Tannehill-Plamondon
 Title: Executive Director

APPROVED AS TO FORM:

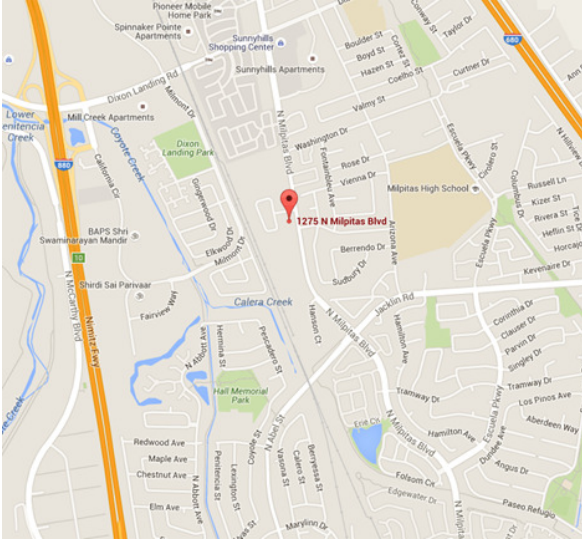
APPROVED AS TO FORM:

 Christopher J. Diaz
 City Attorney

 Gary M. Baum
 General Counsel

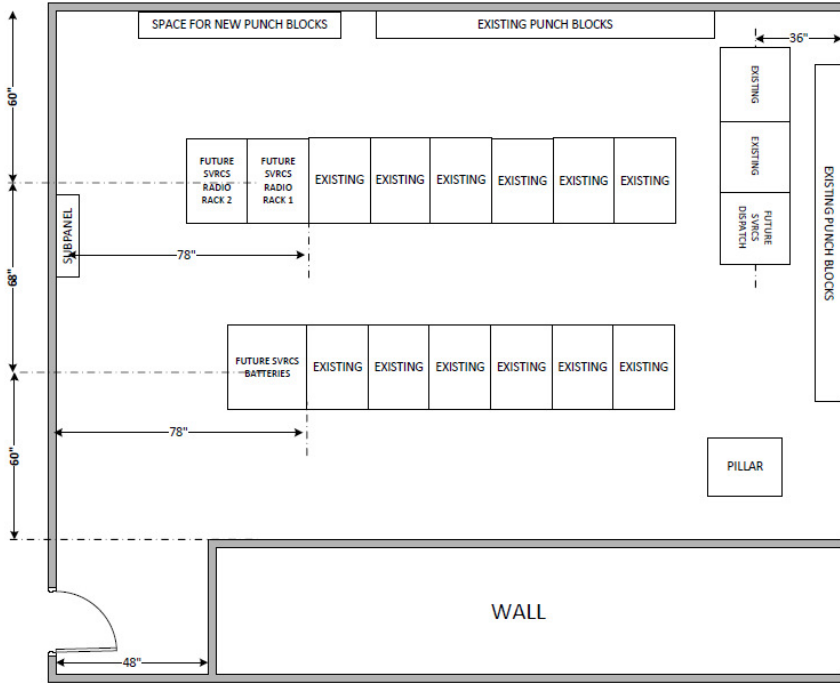
Site Names:
Milpitas Police
Department

EXHIBIT A
SITE LOCATION



Site Names:
Milpitas Police
Department

EXHIBIT B
DESCRIPTION OF SVRCS EQUIPMENT AREA



EQUIPMENT ROOM

SILICON VALLEY REGIONAL COMMUNICATIONS SYSTEM (SVRCS) PHASE 2 TDMA MILPITAS PD DISPATCH AND SIMULCAST REMOTE RF SITE				
XXX	S. PATIL	G. DURBIN	NONE	XXX
XXX	XXX	XXX	1 OF 1	XXX
XXX	XXX	XXX	XXX	XXX

Site Names: Milpitas Police Department		
---	--	--

EXHIBIT C

INSURANCE REQUIREMENTS

1 SVRIA shall procure and maintain, or cause to be procured and maintained, throughout the term of this LICENSE, casualty insurance against loss or damage to the SVRCS. This insurance shall, as nearly as practicable, cover loss or damage that is normally covered by such insurance with extended coverage. This insurance shall not be required to cover loss or damage caused by seismic activity. This insurance shall be subject to deductibles as are customarily maintained by public agencies with respect to works and properties of a like character. The insurance may be maintained as part of or in conjunction with any other insurance coverage carried by SVRIA, and may be maintained in whole or in part in the form of the participation by SVRIA in a joint powers authority or other program providing pooled insurance.

2 SVRIA shall maintain or cause to be maintained throughout the LICENSE's term, a standard comprehensive general insurance policy or policies whose minimums are at least one million (\$1,000,000) dollars per occurrence to protect SVRIA, LICENSOR, and their respective members, officers, agents, employees, designated volunteers and assigns. The policy or policies shall provide for indemnification of said Parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of operating the SVRCS as required by the SVRIA JPA LICENSE. Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as SVRIA shall deem adequate and prudent. This insurance may be maintained as part of or in conjunction with any other insurance coverage carried by SVRIA. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth in this LICENSE shall be deemed to be the minimum amount of insurance required under this LICENSE and shall be available to the Parties.

3 Insurance required to be maintained under this LICENSE, may be obtained under a self-insurance program. SVRIA's coverage shall be primary insurance with respect to the LICENSOR; and LICENSOR's insurance shall be excess of SVRIA's insurance and shall not contribute with it.